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DISTRICT III

September 13, 2016

To:

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Wausau, WI 54403

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D. B. D.
Mendota Juvenile Treatment Center
301 Troy Drive
Madison, WI 53704

You are hereby notified that the Court has entered the following opinion and order:

2016AP996-NM

State of Wisconsin v. D. B. D. (L. C. No. 2015JV27A)

Before Seidl, J.¹

Counsel for D. B. D. filed a no-merit report concluding there is no arguable basis for challenging an order granting a request to change D. B. D.'s placement from the Marathon County Secure Detention Facility to Lincoln Hills School, with the expectation that he would be transferred to Mendota Mental Health Facility after a thirty-day evaluation. D. B. D. was

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

advised of his right to respond to the report and has not responded. Upon this court's independent review of the record, we conclude no issue of arguable merit appears.

Thirteen-year-old D. B. D. was initially placed in a Type 2 facility based on his admission to charges of criminal damage to property and disorderly conduct. That order is not the subject of this appeal. He was placed at the Marathon County Secure Detention Facility while the Department of Corrections attempted to find appropriate placement. His social worker requested a change of placement based on her inability to find an appropriate Type 2 facility due to D. B. D.'s behavioral problems and mental disabilities.² The social worker testified she was unable to locate a Type 2 facility that was willing to accept D. B. D. He had previously been placed at SaintA's, the most restrictive placement facility short of Lincoln Hills. At SaintA's, D. B. D. created an unsafe environment for himself and his peers by breaking a large window, and he was unable to follow a safety plan. The social worker testified D. B. D. has major mental health needs and requires psychotropic medication. He struggles with his behaviors and impulsivity, becomes agitated and angry, which then turns to physical and verbal aggression toward authority figures and his peers. As a result, the social worker could find no facility or foster home in Wisconsin or Minnesota willing to accept him. He could not be sent to Mendota for treatment until he completed an assessment and was referred to Mendota by Lincoln Hills.

The defense presented no evidence, but argued that placement at Lincoln Hills was inappropriate due to recent allegations of abuse to the residents. The court approved the petition

² D. B. D. was also found not guilty by reason of mental disease or defect in another case.

to place D. B. D. at Lincoln Hills with the expectation that he would be referred to Mendota after thirty days.

The record discloses no arguable basis for challenging the order changing placement. The court followed the procedure and notice requirements prescribed in WIS. STAT. §§ 938.357(1)(am), 938.363(1)(a) & (b) and (1m). The circuit court found D. B. D. had been adjudicated guilty of committing a crime which, if committed by an adult, could result in a sentence of six months' incarceration or more. The court found, based on the social worker's testimony, that D. B. D. posed a danger to the public and, based on his poor behavior and treatment needs, needed restrictive custodial treatment. *See* §§ 938.357(3) and 938.34(4m). The circuit court also accepted the social worker's testimony that no less restrictive placement was available in Wisconsin or Minnesota. Those findings are not clearly erroneous and are sufficient to support the change of placement.

This court's independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the order is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Daniel Goggin II is relieved of his obligation to further represent D. B. D. in this matter. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals